



Charging Policy for Residential Care Services for Adults

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Contents:

1.	Introduction	4
2.	Personal budgets	4
3.	Financial Assessments	4
4.	What counts as income	6
5.	How CMBC work out Tariff Income	6
6.	What counts as savings	7
7.	Charges	7
8.	Treatment of First or Third party top ups	8
9.	Temporary Residential care	8
10.	Deferred Payments	8
	How it works	11
	Terminating the Deferred Payment Agreement	12
11.	Former Self funders	13
12.	Financial Assessment Considerations	13
13.	Review and appeals process	14

1. Introduction

- 1.1 Calderdale Metropolitan Borough Council (CMBC) arrange long term, respite and short stay residential care services for people who have been assessed as being eligible for care and support in a residential or nursing home.
- 1.2 The Care Act 2014 brings all community care law under one all-encompassing piece of legislation and repeals almost all of the existing provisions
- 1.3 Calderdale Metropolitan Borough Council has a charging policy which follows Government guidelines. This takes into account a person's individual income and savings. CMBC use a financial assessment to work out how much a person should pay towards their residential care and support services.
- 1.4 The charging policy will be applied fairly to everyone and in most circumstances, a person will be expected to contribute financially in part or in full to fund part or all of their residential care and support.

2. Personal Budgets

- 2.1 If a person has a care and support plan, an amount of money will be identified that will be enough to meet their eligible needs. This agreed amount of money is called a Personal Budget.

3. Financial Assessment

- 3.1 A person will be expected to pay the full cost of their residential care and support unless they can show CMBC that they cannot afford it. To do this they will need to complete a financial assessment.
- 3.2 CMBC use a financial assessment (a means test) to establish how much a person may need to pay towards the cost of their care.
- 3.3 Not everybody will be required to pay the same amount for their care and support services.
- 3.4 Section 8.14 of The Care and Support Statutory Guidance instructs that Local Authorities are not permitted to charge for provision of the following types of care and support:
 - Community equipment (aids and minor adaptations) less than £1,000.00
 - Reablement, for a period of up to six weeks
 - Services provided to those with Creutzfeldt Jakob Disease
 - Any service or part of service which the NHS is under duty to provide, this includes intermediate care, Continuing Healthcare, and the NHS contribution to Registered Nursing Care
 - Assessment of needs and care planning, including the cost of the financial assessment

- Services which the local authority (LA) has a duty to provide through other legislation, for example aftercare services under Section 117 of the Mental Health Act 1983. These are services which are provided to meet a need arising from, or related to, the person's mental disorder, in order to reduce the risk of a deterioration of the person's mental health condition and need for re-admission for the treatment of that mental disorder.
- 3.5 Local Authorities are permitted to charge for provision of the following types of care and support:
- Services that meet needs which are unrelated to Section 117. These services will be subject to the local authority charging policy and may result in a client contribution.
 - The difference between the actual cost of preferred accommodation and the usual cost of providing or arranging for the provision of accommodation of that kind under Section 117.
- 3.6 During a financial assessment a person's income, savings and outgoings are taken into account and looked at against the cost of their care and support. This will help identify the charge they are expected to pay. CMBC may ask that evidence is provided, if a person refuses or chooses not to be financially assessed they will be expected to pay the full cost of the services they receive.
- 3.7 CMBC will always undertake a financial assessment to determine how much a person should contribute, except when it is clear that they have savings in excess of the upper capital limit, or they have refused to participate in the process. For 2022/23 the upper capital limit is £23,250.
- 3.8 The upper capital limit is reviewed and confirmed by the Department of Health in April of each year.
- 3.9 If a person has savings in excess of the upper capital limit, they will be expected to meet the full cost of the care services they receive.
- 3.10 When CMBC calculate a person's assessed contribution, we allow the sum set by the Department of Health for a person to use for personal expenses. For 2022/23 the Personal Expense Allowance is £25.65.
- 3.11 If a person has applied for a Deferred Payment Agreement, they may keep up to £144 per week of their weekly income. This is called a disposable Income Allowance and will be reviewed and confirmed by the Department of Health in April of each year.
- 3.12 When a person's financial assessment has been completed, they will be told the weekly charge they need to pay towards the cost of the care service they have. This is called an assessed weekly charge which will be applied from the start of a person's service.
- 3.13 Reviews of a person's financial assessment will be completed in accordance with Care Act guidance. These will be conducted on a regular basis, and at least

annually. The review will take into account any changes to a person's financial circumstances. For example, a decrease in the level of their capital resources, or an increase in the level of their pensionable income.

4. What counts as income:

4.1 All State and Welfare benefits count as income. These could include but is not limited to:

- State Retirement Pension
- Guaranteed Pension Credit
- Employment Support Allowance (ESA)
- Income Support
- Attendance Allowance
- Personal Independence Payment (PIP)
- Universal Credit

4.2 All private income is counted as income. This could include but is not limited to:

- Private pensions
- Works / Occupational pensions
- Tariff income
- Any other income received on a regular basis.

5. How CMBC work out Tariff Income

5.1 The tariff income calculation is based on guidance issued by the Department of Health and may be subject to change. Tariff income is meant to represent an amount a person with savings between the lower and upper capital limits should be able to contribute towards their care and support and is not representative of any interest-earning capacity of those savings.

5.2 If a person has savings between the lower and upper capital limits, CMBC will include tariff income in their calculations. For 2022/23 the capital limits are:

- Lower capital limit £14,250
- Upper capital limit £23,250

5.3 CMBC calculate a notional income of £1 per week for each £250 (or part thereof) of any amount between the lower and upper capital limits. For example, savings of £16,400 will attract a tariff income of £9 per week ($\text{£16,400} - \text{£14,250} \div \text{£250} = \text{£9}$).

6. What counts as savings

6.1 For the purpose of a residential care financial assessment, savings can include but is not limited to:

- Money held in a bank, building society or post office account (50% if a joint account)
- ISAs
- Stocks and shares
- Premium Bonds
- National Savings Certificates
- Property and/or land (unless the property is subject to an automatic disregard. For example, spouse or a relative defined as disabled as per the Care Act remains in occupancy, or property is subject to a 12-week disregard)

7. Charges

7.1 Charges are payable from the date of admission. If a person self-funds their residential care and their capital falls below the threshold, the Local Authority can only be responsible for any funding from the date of the submission of the financial assessment, or the date at which the funds become depleted if it is after this.

7.2 If a person dies during the term of the Placement Agreement, their Placement will be deemed to be terminated on the third Business Day following the date of the death and the Fee will only be paid up to and including this date. In such circumstances, the Provider will as soon as is practicable, within this period of time:

- a) inform the Council in writing (using such forms as are issued to the Provider by the Council from time to time) of the death of the person
- b) inform the person's next of kin and/or representative in writing; and
- c) remove the person's personal effects and provide safe storage for these items at its own expense for a reasonable period while making reasonable endeavours to contact any relatives of the deceased with a view to securing the handover of property to the relatives.
- d) in the event that despite reasonable and demonstrable endeavours, the Provider has not been able to secure the handover of the deceased's property to their relatives, for one reason or another after a reasonable period of time, the Provider shall inform the Council of this fact in writing to Gatewaytocare@calderdale.gov.uk and the parties will therefore agree on what to do with the property.

7.3 During this time the Provider must inform the Person's relatives that they can collect the belongings. For the avoidance of doubt, if personal effects are not

removed from the person's room the Fee will only be paid in accordance with the paragraph above.

8. Treatment of first or third party “Top Ups” in Residential Care

- 8.1 Where a person chooses a residential care home that is more expensive than what the Local Authority deems is required to meet their eligible care and support needs, the difference, referred to as a “top up,” must be paid by the person or a third party. This is subject to completion of a first or third party charge written agreement which has been authorised by the Council, which will be reviewed on an annual basis.
- 8.2 The Council will ensure that the service user or third party is aware of the consequences of failing to maintain the top up payment which can include a move to an alternative affordable placement that is suitable to meet the service user's care and support needs (subject to a care and support assessment). More information is available in CMBC's separate Choice of Accommodation and Top-up Arrangements Protocol.

9. Temporary (Respite or Short Stay) Residential Care

- 9.1 Short term care, such as respite care will be charged at the standard residential care rate. During periods of respite, the financial assessment will take into account costs from the person's home, such as rent, mortgage or Council Tax.
- 9.2 As with all social care costs, the charges will be based on the amount a person has been assessed as being able to pay. If a person refuses or opts out of a financial assessment, they will need to pay the full cost of their stay.
- 9.3 Charges for respite care will be based on a full financial assessment.
- 9.4 Those who have a temporary stay that becomes permanent will be assessed for a permanent stay at the date permanency is confirmed, a financial assessment will be carried out and their care and support plan will be amended.

10. Deferred Payments Agreement (DPA)

- 10.1 The deferred payments scheme under the [Care Act 2014](#) is intended to ensure that people are not forced to sell their home during their lifetime to pay for care.
- 10.2 Deferred payments allow people who require care and support in a care home to defer payment of some or all of their assessed charges for care and support, until a later date.
- 10.3 Under the deferred payments scheme, a Local Authority enters into an agreement with an individual to agree to defer the payment of charges for care home that are due to it from the individual. The Council is moving towards 'Gross

Billing' for all Care Homes, whereby, the Council will pay the full fee to the home and recover costs from the individual.

10.4 CMBC will require a charge to be placed against the property to ensure the council will be able to recover the debt on sale of the property.

10.5 A person may be eligible if they:

- Have been assessed by the Council's Adult & Social Care department as requiring residential care.
- Are responsible for paying their own residential care charges,
- and own, or jointly own their own home / property & have less than £23,250 in capital & or savings.
- The person's needs for care and support are:
 - being met under [section 18](#) (duty to meet needs) or [section 19\(1\) or \(2\)](#) (power to meet needs) of the Care Act (CA) 2014 and the care and support plan for the person specifies that the LA is going to meet the adult's needs by providing accommodation in a care home;
 - not being met by the LA under section 18 or section 19(1) or (2) of the CA 2014 and the LA considers that if it had been asked to meet the person's needs it would have done so by providing the person with accommodation in a care home; or
 - not being or going to be met by the LA under section 18 of the CA 2014 and are needs that the LA considers it would be required to meet under that section by providing accommodation in a care home, but for the fact that the adult's financial resources exceed the financial limit (see [Self-funders' entitlement to deferred payments](#)).
 - The LA is satisfied that the adult has a legal or beneficial interest in a property that is the person's main or only home, and where a financial assessment pursuant to [section 17\(5\)](#) of the CA 2014 has been carried out in respect of the person:
 - the value of that interest has not been disregarded in the financial assessment for the purposes of calculating the amount of the person's capital (in other words, no spouse, partner, or dependants are living in the property); and
 - the capital that they own, less the value of that interest, does not exceed £23,250. Alternatively, where a financial assessment has not been carried out in respect of the person, this condition would still be satisfied if such an assessment were carried out. ([Regulation 2\(2\)](#), *Deferred Payment Regulations 2014*.)
 - The LA is able to obtain adequate security for the payment of the person's deferred amount and any interest or administration costs that are treated in the same way as the deferred amount ([regulation 4\(1\)\(a\)](#), *Deferred Payment Regulations 2014*). Adequate security for these purposes means a charge by way of legal mortgage for an amount which is at least equal to the deferred amount and any interest or administration costs which are to be treated in the same way as the adult's deferred amount and which is capable of being registered as a first legal charge in favour of the LA in the land register ([regulation 4\(2\)](#)). For more information, see [Adequate security](#).
 - Genuine and informed written consent to the matters specified in [regulation 4\(5\)](#) of the *Deferred Payment Regulations 2014* is provided by any person

who the LA considers has an interest in the land or other asset in respect of which a charge will be obtained, and whose interest the LA considers may prevent it from exercising a power of sale of the land or asset or recovering the deferred amount (*regulation 4(4)*). The matters in respect of which consent must be provided pursuant to *regulation 4(5)* are to:

- the creation of the charge; and
 - the charge taking priority to and ranking before any interest the person has in the land or other asset that will be the subject of the charge.
- The person agrees to all the terms and conditions that are included in the agreement, in accordance with [regulation 11](#) of the Deferred Payment Regulations 2014 (*regulation 2(1)(c)*). For more information, see [Terms and conditions](#).

10.6 Power to Offer a DPA

10.7 [Regulation 3](#) of the Deferred Payment Regulations 2014 gives LAs the power to offer a DPA to people who do not satisfy the criteria specified in *regulation 2*. Unlike a mandatory DPA, a discretionary DPA can also be offered to people requiring care and support in supported living accommodation.

10.8 A LA can exercise its discretion to enter a DPA if:

- The person's needs for care and support are:
 - being met under [section 18](#) or [section 19\(1\) or \(2\)](#) of the CA 2014 and the care and support plan for the person specifies that the LA is going to meet the adult's needs by providing accommodation in a care home, or supported living accommodation;
 - not being met by the LA under *section 18* or *section 19(1) or (2)* of the CA 2014 and the LA considers that if it had been asked to meet the person's needs it would have done so pursuant to those provisions, by providing the person with accommodation in a care home or supported living accommodation; or
 - not being or going to be met by the LA under *section 18* of the CA 2014 and are needs that the LA considers it would be required to meet under that section by providing accommodation in a care home, but for the fact that the LA is satisfied that person's financial resources exceed the financial limit of £23,250. (*Regulation 3(1)(a), Deferred Payment Regulations 2014.*)
 - The condition in [regulation 4](#) of the Deferred Payment Regulations 2014 pertaining to the LA's ability to obtain adequate security is met (*regulation 3(1)(b)*).
 - The person agrees to all the terms and conditions that are included in the agreement, in accordance with [regulation 11](#) of the Deferred Payment Regulations 2014 (*regulation 3(1)(c)*).

10.9 Property owned by a person is included in the financial assessment. It will not be taken into account (disregarded) when a spouse or partner continues to live there after a person moves permanently into residential care. Where the property is to be included in the financial assessment and the eligibility criteria is met, the person may enter into the Deferred Payment Agreement (DPA) with

the council. And if entitled, the council will exclude from the assessed charge the value of the property for the first twelve weeks of a person's stay. This period is called the twelve-week property disregard period and gives people time to seek independent financial advice and consider the options available to them to fund their care & support costs.

10.10 If a person does not enter into a Deferred Payment Agreement, they will be responsible for paying the full cost of their care home placement, after any disregard period. They will need to decide how they will make these payments if their capital is tied up in their property. A person may choose to rent their property out. This could give them enough income to pay for the cost of their care home placement.

10.11 How it works:

10.12 When a person's property sells or their placement ends, they will be advised on how much they owe in deferred charges & will be asked to repay the debt that has accrued.

10.13 Although, there is no requirement that a person will have to sell their property during their lifetime, their representatives will be asked to repay money shortly after they have passed away or conversely if the property is sold whilst the person is in care home accommodation, where a deferred payment agreement has been entered into.

10.14 To secure the accruing debt whilst a person is on the Deferred Payment Agreement Scheme, a charge will be placed onto their property as security to ensure the money owed to the council is repaid. The Care and Support (deferred payment) Regulations reg (4) to the Care Act 2014 provides that a Local Authority must obtain adequate security in place for the payment of an adult's deferred amount when a person enters into a Deferred Payment Agreement with the Council.

10.15 DP and The Council's recipient's responsibilities under a DPA

Whilst on the scheme a person must agree to:

- Maintain and insure their home / property.
- Ensure a representative is willing to maintain the property (have necessary remedial works conducted if required) to retain its value on their behalf – the person is liable for these expenses.
- Pay the assessed charge on a regular basis, if this charge is not paid the council reserves the right to terminate the agreement.
- Advise the council of any outstanding mortgage(s), debts and / or any equity release schemes taken out on the property.

The Council's responsibilities under a DPA:

- Provide people with written updates of the amount of fees deferred, of interest and administrative charges accrued to date, and of the total

amount due and the equity remaining in the home.

- Provide a statement on request within 28 days. LAs may also provide updates on a more frequent basis at their discretion. An update should set out the amount deferred during the previous period, alongside the total amount deferred to date. It should also include a projection of how quickly the person will deplete all equity remaining in their chosen form of security up to their equity limit.
- Re-assess the value of the chosen form of security once the amount deferred exceeds 50% of the security (and periodically thereafter) and adjust the equity limit and review the amount deferred if the value has changed. Re-valuation of property should be carried out annually.

10.16 Calderdale MBC do not charge any administration fees for setting up and ongoing administration of a DPA. This is subject to review.

10.17 Calderdale MBC do not charge any interest against the debt accrued on a person's DPA. This is subject to review.

10.18 The Deferred Payment Scheme ends

- On the death of the person or
- On the sale of the property
- When terminated by the adult or their representative giving notice and payment of the deferred amount in advance or
- When the capital assets decrease

10.19 Where a person has passed away and the property is not sold within 90 days of date of death, interest is chargeable from the 91st day after date of death for a Deferred Payment Scheme. CMBC charge 1% above the base interest rate.

The Calculation is as follows:

$((A/B) \text{ multiplied by } C\%) \text{ multiplied by } D$

Where

A = number of days after date of death to redemption date

B = 365 (days in a year – or 366 for leap year)

C = interest rate, as per above

D = amount outstanding

10.20 Where the Deferred Payment Scheme ends, it is dependent on the market on how quickly a property sells, therefore CMBC does not issue a deadline for repayment of the charge which was placed against the property. A solicitor will provide a completion date when sold.

10.21 Terminating the Deferred Payment Agreement

10.22 A person can end the deferred payment agreement at any time by repaying the accrued debt.

11. Former self funders

- 11.1 Former self funders are those individuals whose assets fall below the threshold to become eligible for Council funding (below the £23,250 asset threshold). Former self funders may become eligible for social care funding once their resources have depleted below the statutory thresholds and will need Care Act and financial assessments to determine eligibility.
- 11.2 The Council will have to make a determination following a Care Act assessment, to confirm that an individual has eligible care needs. Following this, a financial assessment will be undertaken to determine the date the former self funder became eligible for Council funding.
- 11.3 Calderdale Metropolitan Borough Council will not be responsible for debts incurred before the former self funder or their representative has completed a financial assessment. Calderdale Council will become responsible for paying for care:
- If the Council assesses there that there are eligible care needs
 - AND a financial assessment has been completed and confirmed the individual is below the financial limit
- 11.4 The date that Calderdale Council will assume responsibility for payment will be the date of the submission of the financial assessment, or the date at which the funds become depleted if it is after this.
- 11.5 The financial assessment will identify the former self funders contribution towards the cost of meeting their eligible care needs. This may mean that they may be asked to explore such options as selling property (unless exempt) in order to generate assets to contribute to their care.

12. Financial Assessment Considerations

- 12.1 Deprivation of income and / or assets is the disposal of income and capital (for example, property and investments) in order to avoid or reduce care charges; disposal can take the form of transfer of ownership or conversion into a disregarded form.
- 12.2 In all cases, it is up to the person to prove to the Council that they no longer possess an income or an asset, and the reason for this. The Council will determine whether to conduct an investigation into whether deprivation of income or assets has occurred.
- 12.3 Any investigation will have regard to guidance contained within the Regulation of Investigatory Powers Act, 2000. Following the investigation, where the Council decides that a person has deliberately deprived themselves of an asset or income in order to reduce a charge for care and support, the Council will initially charge the person as though the deprivation has not

occurred, and they still owned the asset or income. This means assuming they still own the asset and treating it as notional capital or notional income.

- 12.4 Where the person has transferred the asset to someone else, that person, is liable to pay the Council the difference between what it would have charged and did charge the person receiving care and support. However, the person is not liable to pay any more than the benefit that they have received from the transfer. If the person has transferred funds to more than one person, each of those people is liable to pay the Council the difference between what it would have charged or did charge the person in proportion to the amount they received.
- 12.5 Property owned other than the person's main or only home will be included within the financial assessment as a capital asset.

13. Review and appeals process

- 13.1 If an individual believes the result of their financial assessment is incorrect, due to inaccurate information being used, or if they wish to claim additional expenses, they can ask for a review of their assessed weekly charge by contacting the Charging Assessment Team below who will look at the calculation again and let them know the outcome.

Charging Assessment Team
Calderdale Council Adult Services and Wellbeing
PO Box 51
Halifax
HX1 1TP
charging.assessmentteam@calderdale.gov.uk
01422 393639

- 13.2 If the individual still disagrees, they can appeal the decision by email or in writing. Their appeal will be acknowledged within ten working days. As soon as their appeal has been investigated, they will receive a response in writing.
- 13.3 If the individual is still not satisfied, they can make a complaint. The complaint can be made online, by email or by letter. They can do this themselves or they can ask someone to do it for them. Individuals should contact the complaints team below directly if they need help to do this

FREEPOST RTGL-EXHR-SRLH
Complaints and Compliments Team
Town Hall
Crossley Street
Halifax
HX1 1ZS
complaintsandcompliments@calderdale.gov.uk
01422 288001

[www.calderdale.gov.uk/v2/council/consultation-and-feedback compliments-and-complaints](http://www.calderdale.gov.uk/v2/council/consultation-and-feedback-compliments-and-complaints)

- 13.4 If the individual is still not satisfied with the outcome of the complaint, the complaints team will provide them with contact details of the Health and Social Care Ombudsman.